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THESIS

WHAT EFFECT HAS CONTRACTING-OUT FOR COMMERCIAL ACTIVITIES HAD ON NAVAL PROPERTY ADMINISTRATION?

by

Arthur F. Dehnz

December 1987

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What Effect has Contracting-Out for Commercial Activities had on Naval Property Administration?

by

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Lieutenant, United States Navy
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requirements for the degree of

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ABSTRACT

The issue of providing Government-furnished property to contractors for use on production contracts has received a great deal of attention since the late 1960's. Now with more emphasis being placed on contracting-out for commercial activities, agencies are providing contractors property to use while performing service contracts on military installations. This thesis reports the findings of a survey of 30 property administrators involved with commercial activities (services) contracts. The study concludes that property administration gets little attention in the services contracts area. This situation will not be corrected until guidance and direction comes down from higher authority that is clear and concise.

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I. INTRODUCTION

A. GENERAL

Over the last several years Congress has become increasingly concerned with the Department of Defense's (DOD) management of Government furnished property. The lack of adequate control over Government property creates opportunity for fraud, waste, and abuse. It was found in certain cases that contractors were issued excess property, and on occasion this excess property had been used for commercial business or sold back to DOD. [Ref. 1:p. 1]

Congress wants DoD to enforce its 1970 policy to phase down Government-furnished property and implement much tighter controls over property that must remain in the possession of contractors. [Ref. 2:p. 1] At the same time Congress is calling for DoD to provide less Government-furnished property, the Executive Branch is seeking to reduce the size of the Federal Government and operate in a more cost effective manner. The path taken to achieve these goals is the contracting out of commercial activities as required by the Office of Management and Budget (OMB) Circular A-76. [Ref. 3:p. 3]

When commercial activities are contracted out, Government property is often transferred into the possession of contractors. The contract personnel who are writing the

commercial activities contracts often have no property administrative experience or property administrators (GS-1103) as do Supervisors of Shipbuilding, Naval Plant Representative Offices, Defense Contract Administrative Service Plant Representative Offices, and Defense Contract Administrative Service Management areas. Since the majority of commercial activities are performed on Naval installations, full-time contract administrative organizations do not get involved with day to day contract administration. That task is generally left to the Procuring Contracting Officer, or the Contracting Officer's Technical Representative. [Ref. 4:p. 42.2-3]

B. OBJECTIVE OF THE RESEARCH

The principal objective of this study was to determine what management problems OMB Circular A-76 (Performance of Commercial Activities) creates for Naval property administration.

Given the above stated objective, the following subsidiary questions were also addressed:

1. What is the extent of Government property in the hands of contractors for use off Naval stations?
2. What is the extent of Government property in the hands of contractors for use on Naval installations?
3. What is the extent of Government property that is jointly used by the Government and contractors?
4. Is property in the hands of contractors accounted for and reported in accordance with the Federal requirements?

5. To what extent should Government-furnished property be furnished under commercial activities contracts?

C. SCOPE AND LIMITATIONS

The scope of this study will focus on Navy contracts issued under the A-76 initiative that involve property. In particular, the following is examined: the amount of property in the possession of the contractor, how the official Government records are kept and if the property is being reported as required, and the qualifications of the personnel performing the property administration function. This thesis will not address property provided to contractors under production contracts.

D. METHODOLOGY

Research data for this thesis was collected by means of literature search, telephone interviews, and personal interviews at headquarters and field activities. The literature was accumulated through the Naval Postgraduate School Library, Naval Postgraduate School Administrative Sciences Department Library, the Defense Logistics Study Information Exchange, the Naval Industrial Resources Support Activity, and other DoD offices dealing with property administration and commercial activities.

Interviews were held with personnel involved in property administration at Defense Logistics Agency, the Office of the Assistant Secretary of the Navy (Shipbuilding and Logistics), the Office of the Assistant Secretary of the

Navy (Comptroller), Naval Supply Systems Command, Naval Facilities Engineering Command (NAVFAC), and numerous field level activities throughout the Navy.

Interviews concerning commercial activities were held with personnel at the Office of the Assistant Secretary of Defense (Installations and Logistics), Chief of Naval Operations, and the Naval Industrial Resources Support Activity.

All interviews were on a non-attributable basis to aid the researcher in gathering honest and candid responses.

With the exception of research presently being conducted by the General Accounting Office (not released), there is no other research known in the area of property administration and commercial activities contracts.

E. DEFINITIONS

The following definitions and terms are applicable to concepts used in this study:

1. Contractor-Acquired Property: Property procured or otherwise provided by the contractor for the performance of a contract, title to which is vested in the Government. [Ref. 5:p. 45-1]

2. Government-Furnished Property: Property in the possession of, or acquired directly by, the Government and subsequently delivered or made available to the contractor. [Ref. 5:p. 45-1]

3. Property: Includes all property, both real and personal. It consists of five separate categories--material, special test equipment, special tooling, military property and facilities. [Ref. 5:p. 45-1]

4. Real Property: For purposes of accounting classification, this is (1) land and rights therein, (2) ground

improvements, (3) utility distribution systems, (4) buildings, and (5) structures. [Ref. 5:p. B102.12]

5. Special Test Equipment: Either single or multi-purpose integrated test units engineered, designed, fabricated or modified to accomplish special purpose testing in the performance of the contract. This does not include: (1) material, (2) special tooling, (3) buildings and nonseverable structures, and (4) plant equipment items used for plant testing purposes. [Ref. 5:p. 45-1]

6. Special Tooling: All jigs, dies, fixtures, molds, patterns, taps, gauges, other equipment and manufacturing aids, all components of these items, and replacement of these items, which are of such a specialized nature that, without substantial modification or alteration, their use is limited to the development or production of particular supplies or parts thereof or to the performance of particular services. [Ref. 5:p. 45-1]

7. Facilities: Industrial property (other than material, special tooling, military property, and special test equipment) for production, maintenance, research, development, or test, including real property and rights therein, buildings, structures, improvements, and plant equipment. [Ref. 6:p. B102.12]

8. Material: Property which may be incorporated into or attached to an end item to be delivered under a contract or which may be consumed or expended in the performance of a contract. It includes, but is not limited to, raw and processed material, parts, components, assemblies, and small tools and supplies which may be consumed in normal use in the performance of a contract. [Ref. 6:p. B102.5]

9. Military Property: Government-owned personal property designed for military operations. This includes end items and integral components of military weapon systems, along with the related peculiar support equipment which is not readily available as a commercial item. It does not include Government material, special test equipment, special tooling or facilities. [Ref. 6:p. B1010.7]

10. Other Plant Equipment (OPE): That part of plant equipment, regardless of dollar value, which is used in or in conjunction with the manufacture of components or end items relative to maintenance, supply, processing, assembly or research and

development operations, but excluding items categorized as IPE. [Ref. 6:p. B102.12]

11. Industrial Plant Equipment (IPE): That part of plant equipment with an acquisition cost of $5,000 or more; used for the purpose of cutting, abrading, grinding, shaping, forming, joining, testing, measuring, heating, treating, or otherwise altering the physical, electrical or chemical properties of materials, components or end items entailed in manufacturing, maintenance, supply, processing, assembly, or research and development operations. [Ref. 6:p. B102.12]

12. Contracting Officer's Technical Representative (COTR): An individual appointed in writing by the Commanding Officer of the requiring activity or his duly authorized representative, who functions as the technical representative of the contracting officer in the administration of a specific contract or delivery order. A COTR's duties under a specific contract or delivery order will be set forth in the contract administration plan for the contract. COTR duties include assuring quality, providing technical direction as necessary with respect to the specifications or statement of work, monitoring the progress, cost and quality of contractor performance, and certifying invoices. COTRs do not issue delivery orders. [Ref. 7:p. 3]

13. Contracting Officer: A person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the contracting officer acting within the limits of their authority as delegated by the contracting officer. Administrative Contracting Officer (ACO) refers to a contracting officer who is administering contracts. [Ref. 5:p. 42-1]

14. Plant: The fixtures, tools, machinery and apparatus which are necessary to carry on a trade or business. [Ref. 8:p. 1309]

15. Possession: The detention and control, or the manual or ideal custody, of anything which may be the subject of property, for one's use and enjoyment, either as owner or as the proprietor of a qualified right in it, and either held personally or by another who exercised it in one's place and name. That condition of facts under which one can exercise his power over a corporeal thing at his pleasure to the exclusion of all other persons. [Ref. 8:p. 1325]

16. Actual Possession: Exists where the property is in the immediate occupancy of the party. [Ref. 8:p. 1325]

17. Constructive Possession: Possession not actual but assumed to exist, where one claims to hold by virtue of some title, without having the actual occupancy, as where the owner of a tract of land, regularly laid out, is in possession of a part, he is constructively in possession of the whole. [Ref. 8:p. 1325]

18. Property Administrator: The individual designated by appropriate authority to administer the contract requirements and obligations relative to Government property. He is an authorized representative of the contracting officer. [Ref. 6:p. B-102.5]

F. ORGANIZATION OF THE STUDY

Chapter II is a historical perspective of Government-furnished property and commercial activities. Chapter III looks at Government property policies and procedures, through a review of Federal Acquisition Regulation (FAR) requirements, clauses, and Defense Logistics Agency (DLA) involvement in contract administration on Government installations. Chapter IV reports survey results from 30 Government employees, both military and civilian. Chapter V provides key issues, problems and trends in the realm of property administration and commercial activities contracts. That chapter concludes with recommendations and areas for future research.

II. BACKGROUND

A. THE HISTORY OF COMMERCIAL ACTIVITIES

Since the 1800's, Congress tried to control the size of the Federal Government by regulating the numbers of civilian and military employees on the Federal payroll, thus forcing Federal Agencies to consider contracting out for goods and services. However, personal services are not allowed to be contracted for, unless specifically authorized by statute. In the late 1800's and the early 1900's the pervading attitude was very parochial with a broad interpretation of the term "personal services"; thus contracting out was stifled. [Ref. 9:p. 153]

With the United States entry into World War I, it was discovered that the Government could not produce all the required war materials and services. The Government turned to private industry to supply needed goods and services. After the war and throughout the 1920's, contracting out came to a near halt. The attitude then was that contract employees were less reliable than Government employees and could not be held responsible for their failures. [Ref. 9:p. 153]

The 1930's brought a new attitude toward Government performance of commercial activities. In 1932 the House of Representatives formed a special committee to study and

recommend whether or not the Government should continue to perform commercial activities. The committee, in 1933, recommended the termination of many commercial functions. With this recommendation the move towards privatization was about to take a firm setting in Federal policy. This movement was short-lived with the dark clouds of World War II looming on the horizon. [Ref. 10:p. 2]

The late 1930's saw a massive build-up of military forces like never before in history. While the Government did rely heavily on private industry for goods and services, it also built up its civilian and military work forces to produce the massive amounts of services and materials required to defeat the Axis foe. Shortly after the war, Congressional interest in contracting out resurfaced and the Defense Department began to sell facilities to private industry. [Ref. 10:p. 3]

In 1954, President Eisenhower stated in his budget address in no uncertain terms that the Federal Government was going to begin a major shift to take commercial activities from in-house operations and put them into private hands. [Ref. 11:p. 1.79-81]

In 1955, the Bureau of the Budget (BoB) issued bulletin number 55-4, which echoed President Eisenhower's desires to shift commercial activities to private industry. BoB bulletin #55-4 permitted one exception to the policy, when contracting out was not in the best interest of the public.

[Ref. 12:p. 155] This bulletin was revised several times in the late 1950's and early 1960's. The shift of commercial activities was slow to catch on and it was believed that the policy lacked clear statutory base. [Ref. 9:p. 154]

In the mid 1960's, the privatization policy was put to a test when the Air Force awarded a services contract at Fuchu Air Force Base, Japan. Charges were brought against the Air Force claiming the contract was for personal services. This launched a Civil Service investigation to determine if the contract was for personal services and if it created an employer/employee relationship.

The Commission found that the charges were just and ruled that the contract was for personal services. In his part of the opinion, Leo P. Pellerzi, General Counsel of the Civil Service Commission, developed six standards to be used in judging if a relationship created by a contract is equivalent to that of an employee/employer. [Ref. 9:p. 2]

In 1966, the Bureau of the Budget issued the first circular, A-76, which set the foundation for today's commercial activities program. BoB circular A-76 differed from BoB circular #55-4 in listing five specific circumstances when commercial activities could remain with the Government. They are:

1. Procurement from commercial sources would delay or disrupt a DoD program.
2. In-house performance is necessary to maintain military training or readiness.

3. A satisfactory commercial source is not available.

4. Products or services are available from other agencies.

5. Contract performance is more costly. [Ref. 13:p. 2]

In 1967 the newly-formed Office of Management and Budget reissued circular A-76, now entitled Policies for Acquiring Commercial or Industrial Products and Services for Government Use. It contained four major enhancements for the privatization program. [Ref. 13:p. 7]

First, it addressed the criticism of A-76 that the program was vague and unstructured. Second, it introduced changes to clarify and expand the method of in-house and contracting-out comparisons. Third, it required cost analysis prior to a new start or continuing Government functions, unless in-house performance is justified. Fourth, it placed heavy emphasis on cost analysis, a major program shift. [Ref. 13:p. 8]

In the early 1970's, many concerns were raised about the commercial activities program. The two most often heard complaints were that the instruction was too vague and implementation was not uniform. [Ref. 13:p. 9]

In 1978 the U.S. Court of Appeals for the District of Columbia revisited the personal services issue when it rendered a decision in the Lodge vs. Webb case. The court primarily used Pellezi's sixth standard, with a much narrower interpretation, and stated that ". . . relatively continuous, close supervision of a substantial number of

contractor employees must exist. . . ." for a personal services situation to exist. [Ref. 14:p. 12] This decision reduced the importance of the personal services issue and brought about a more aggressive pursuit of contracting-out for commercial activities.

While the issue of personal services has taken a less important role in the contracting-out process, it has not gone away. It must always be remembered that contracting out involves non-personnel services and the contract should not create a de facto employee/employer relationship. [Ref. 9:p. 158]

In 1979, OMB again revised circular A-76 to make it more objective and systematic, in hopes that it would be more uniformly applied and ensure credibility and fairness. The systematic approach was two-pronged; it included the use of:

1. Performance Work Statements (PWS), and a
2. Cost Comparison Handbook (CCH). [Ref. 13:p. 35]

Circular A-76 had its last major revision in August 1983, with update and transmittal memorandum number 1 published in August 1985. This revision and update simplified the guidance of the 1979 Cost Comparison Handbook. [Ref. 10:p. 13]

While the 1980's have seen a big push on the effort to contract-out commercial activities, it has also seen Congress prohibit the contracting-out of certain Veterans Administration functions in the 1982 Education and

Employment amendment and place a moratorium on new commercial activities contracts in the 1983 Defense Authorization. [Ref. 15:p. 39]

In a hearing before a subcommittee of the House Committee on Post Office and Civil Service, in September 1984, the chairman expressed concern about the impact the commercial activities program was having on different agencies trying to perform Government functions. The chairman suggested the need to better define the term "Government functions" and reexamine cost comparisons to see if they reflect actual costs. [Ref. 15:p. 41]

As of July 1987 the major criticism of the commercial activities program is coming from the prospective contractors who believe that it is unfair for three reasons:

1. Assuming a 10% profit motive, the contractor has to underbid the Government by 20% to win the competition (10% cost differential required by the A-76 Program and 10% profit that the Government does not have to be concerned with).

2. When the Government does win a contract, it is not required to live up to the specification the contractor had to bid on.

3. It is very easy for the Government to rig the competition so it will win.

Despite the criticism, the Office of the Secretary of Defense (Installation and Logistics) believes the program is a huge success and will save the Government millions of dollars every year. [Ref. 16]

B. HISTORY OF PROPERTY ADMINISTRATION

As stated in the history of contracting-out for commercial activities, the late 1930's saw a build-up of the Government work force, both civilian and military, to produce materials and services to defeat the Axis foe. The Government could not and did not produce all the necessary goods and services, and had to rely heavily on private industry.

At first, the Government was supplying property in the form of major subsystems from various contractors to integration contractors for major weapons platforms. [Ref. 17:p. 163]

As the war material requirements grew, an unready defense industrial base was discovered. The production equipment needed, the skilled people required to operate the equipment and manufacture the weapons, were not available. Since most contractors believed that the war would be short-lived, they were unwilling to invest funds to increase capabilities, thus forcing the Government to provide large dollar amounts of facilities and equipment to contractors. [Ref. 18:p. 357]

After the war and up through the early 1950's contractors expected and the Government did not discourage the practice of providing property. As the 1950's progressed there was an increase in the amount of contractor facilities and a decrease in the amount of Government-owned

facilities. This was due largely to the Defense Department's sales of facilities. [Ref. 19:p. 4]

The Korean conflict was fought largely with weapons and equipment leftover from World War II. [Ref. 18:p. 57] Since production was limited, a great deal of production equipment was outdated by the early 1960's, thus requiring replacement for the Vietnam conflict. [Ref. 19:p. 78]

Since the large amount of equipment requiring replacement, and the rate at which replacement was required stifled industry, the Government again had to provide great amounts of property to meet production requirements. [Ref. 18:p. 357]

In the late 1960's, the Government Accounting Office (GAO) took its first official look at property administration. The GAO report to Congress entitled, Need for Improvements in Controls Over Government-Owned Property in Contractors' Plants, was published 24 November 1967. It reported that:

> On the basis of our review, we believe that there is a need to improve the system of property controls over Government-owned facilities, special tooling, and material in the possession of the contractors. Generally, our review disclosed weaknesses with regard to effective use of industrial plant equipment, rental arrangements, and accounting for control of special tooling and materials. [Ref. 20:p. 1]

The report pointed out numerous problems with property accounting systems and procedures. It highlighted the fact that DoD Directive 4275.5 dated 13 March, 1964 covering Defense Property Policy was not being enforced. The

directive basically stated that the contractor will be encouraged to replace old, inefficient Government-owned equipment or manufacturing processes with modern, more efficient, privately-owned equipment.

With this policy in force for several years, GAO found a net increase of two billion dollars worth of property in the hands of contractors between the years 1963 and 1966. [Ref. 19:p. 39]

Shortly after this damaging GAO Report, the Air Force engaged the Rand Corporation to study Government-furnished property. The head researcher for Rand, Edward Greenberg, agreed with the GAO report. Greenberg reported that there was a great deal of Government property in the hands of contractors and attention should be directed to ensure contractors acquire property themselves. [Ref. 19:p. 38]

The following year, 1967, the Assistant Secretary of Defense (Installations and Logistics), issued a policy that required contractors to furnish all property to perform on a contract. [Ref. 21:p. 1] This policy was deferred by the Deputy Secretary of Defense in 1971 in favor of a phase-down policy, where mobilization-based requirements or placing undue financial hardships on the contractors would make it contrary to public interest to phase out Government-furnished property. [Ref. 22:pp. 7-8]

1972 brought another GAO Report, this one entitled Further Improvements Needed in Controls Over Government-Owned Plant Equipment in the Custody of Contractors. In the opening paragraph it commented on the 24 November 1967 GAO Report, Need for Improvements in Contracts Over Government-Owned Property in the Contractors Plants, stating:

> Subsequent internal reviews by the Department of Defense have shown the continued existence of this (ignoring of Defense policy and continuously providing contractor property with lax controls) situation. [Ref. 23:p. 1]

This second major GAO report on the subject again criticized DoD's accounting policies, procedures and enforcement of policy. This report went on to say:

> . . . Although DoD has made some progress towards its goal of generally requiring contractors to furnish all equipment needed to perform Government contracts the significant amount of equipment remaining in the possession of contractors necessitates a renewed emphasis on the Department's phase out program if it is to achieve its stated objectives. [Ref. 23:p. 4]

The next major GAO report on the subject, entitled Challenges to Reducing Government Equipment in Contractors Plants, was published in September of 1977 and reported that while progress had been made it was not enough. Additional recommendations from this report were:

1. Put more emphasis on identifying equipment essential to support either current procurements or wartime production and emphasize removing unneeded equipment.

2. Obtain visibility of other plant equipment furnished to contractors by maintaining control over records on such equipment.

3. Reassess the position on authorizing the use of Government equipment as commercial work.

This report also pointed out that "phase-out" is a misleading term in the program name, and may have caused some confusion and resistance to the intended phase-down of the Government-furnished property program. [Ref. 24:p. 9]

As a result of the 1977 GAO report, DoD revised the GFP phase-out program in 1978. At this time the policy was made more liberal to fit the practices of the time. The new policy generally stated that while private industry would normally be expected to provide facilities, there would be exemptions for those sectors of industry that required continued Government ownership of property. [Ref. 25:p. 2]

In October 1981, Congressman Brooks chaired the first hearing before a subcommittee of the House Committee on Government operations which recognized the DoD effort in trying to manage the GFP problem, but the subcommittee criticized the slowness of the progress of implementation of GAO recommendations made in 1967, 1972, and 1977, and numerous internal DoD audits. [Ref. 26:p. 4]

The 1981 hearing was followed up by a second hearing in March of 1985. This hearing was also chaired by Congressman Brooks and was entitled, Government Property Furnished to DoD Contractors. In his opening remarks Congressman Brooks stated:

> Following our 1981 investigation, the Government Operations Committee issued a report which concluded that millions of dollars could be saved every year if regulations governing the management of such property were enforced. Subsequent reviews by the General Accounting Office, Department of Defense Inspector General, and the

military service's own auditors indicate quite clearly that the DoD still has not taken the steps necessary to correct the problems we found then. [Ref. 27:p. 3]

In this hearing, that painted a poor picture of DoD property management, Congressman Brooks concluded that:

> The Defense Department had made very little progress in implementing a system to ensure adequate control over the material and equipment it has provided the contractors. . . . We intend to continue monitoring DoD's actions to ensure that these deficiencies are firmly corrected. [Ref. 27:p. 120]

In March 1986, Congressman Brooks chaired a third hearing on GFP entitled, Government Equipment Furnished to Contractors. Congressman Brooks's opening statement was critical of past and present DoD property management practices:

> The mismanagement of Government furnished equipment was identified more than two decades ago. We have probed various aspects of it in hearings in 1981 and 1985, and found that defense contractors were not held accountable for misuses of such property and that the DoD could not independently verify contractor property records. Although some progress has been made, serious problems still remain. [Ref. 28:p. 1]

In this hearing Mr. Conahan, Director of the National Security and International Affairs Division, U.S. General Accounting Office, testified that there was about $3.3 billion dollars of property associated with services, research and development, and nonprofit contractors. He went on later in his testimony to give an example of a service contract with property administration problems. This example was significant because it was the first time services contracts were brought up in GAO reports or

Congressional hearings on property administration. [Ref. 28:p. 8]

Later in his testimony, when questioned by Congressman Horton about the new DoD system to track the dollar value of property, Mr. Conahan stated:

> The system is still being developed and tested. . . An apparent weakness of the system is that it will not identify the amount of equipment that is transferred annually from Defense to contractor inventories as work previously done by service personnel is contracted out to the private sector. [Ref. 28:p. 82]

The most recent exploration of this area was done by the GAO in June 1986 when its report, Government Equipment: Defense Should Further Reduce Amounts it Furnishes to Contractors, was published. The report was based on Mr. Conahan's testimony during the 20 March 1986 hearing. It further criticized DoD for not following its policy of reducing property in the hands of contractors and having inadequate equipment-acquisition guidelines, especially for service contractors. Additionally, the report recommended that DoD, DoA, DoN and DoAF develop specific guidelines for program managers and contracting officials to use in determining when and under what conditions the Government can provide general purpose equipment to service contractors. [Ref. 29]

The following official figures available for Navy-managed property are from the 27 June 1987, fiscal year 1986, Contractor Property Management System Report:

$ 4,560,948,966	Material
3,682,272,840	Military Property
1,191,619,954	STE
1,098,447,505	ST
792,794,896	Facilities
$11,326,084,161	Total

These figures are from four major claimants representing 1,822 contracts.

C. SUMMARY

During the late 1930's, as the Government prepared an unready nation for war, it approached the problems in two ways; first, by building up military production facilities and second by contracting for goods and services the Government could not supply. However, due to a lack of economic incentives for contractors to invest in increased capabilities, the Government had to subsidize them with property or funds to acquire property.

This policy of providing property to contractors has been firmly intrenched. Even when the policy changed in the early 1960's, requiring contractors to provide property, the practice did not change. During the same time the President and OMB were pressuring a privatization policy, putting commercial functions into the private sector.

These two policies have never been jointly reviewed or acted on. However, to formulate the most effective policy, both areas must be reviewed and considered.

III. GOVERNMENT PROPERTY POLICY AND PROCEDURES

The purpose of this chapter is to examine the policy concerning Government property, the accounting procedures, the reporting procedures and the qualifications of property administrators with respect to commercial activities contracts.

A. POLICY CONCERNING THE FURNISHING OF GOVERNMENT PROPERTY

> Contractors are ordinarily required to furnish all property necessary to perform Government contracts. [Ref. 5:p. 45-1]

However, there are several exceptions to this policy: [Ref. 30:p. 31]

1. Contractor unwilling to provide property
2. Contractor unable to provide property
3. Type of contract
4. Economy
5. Standardization
6. Security
7. Increased competition
8. Support of small businesses
9. Expedite production
10. Scarcity of assets
11. Maintenance of industrial base.

It is generally believed that non-enforcement of the property policy leads to higher contract costs through:

(1) property acquisition, (2) property administration, (3) reduction of competition, and (4) reduction in contractor liability. [Ref. 31:p. 42]

Commercial activities contracts are subject to the same policy; however, the decision criterion promulgated for commercial activities contracts looks more at the economy of providing property. Chief of Naval Operations Notice 4860, entitled Commercial Activities Program Update, states:

> . . . The decision should be based on a cost benefit analysis using good judgement and common sense to ensure that the decision is in the best interest of the Government. Complex analysis is not required when the benefits of one option are clear, the decision rationale should be documented using applicable criteria. [Ref. 31:p. 8]

A more detailed description of the commercial activities program property decision criteria is contained in Appendix A.

B. CONTRACT ADMINISTRATION

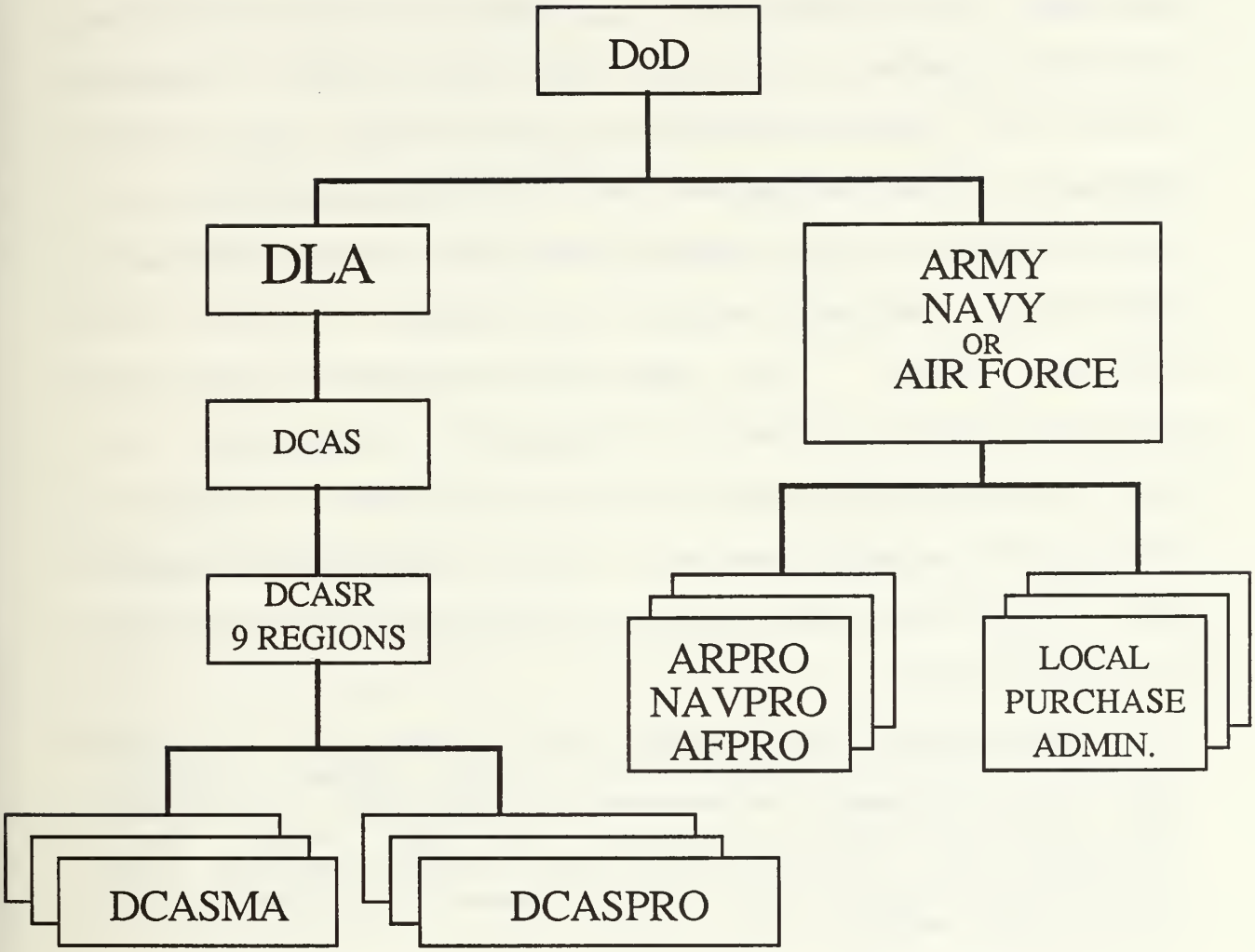
In order to eliminate inefficiency and "present a single face to industry," thus avoiding conflicting agency requirements, the Defense Contract Administration Service (DCAS) was formed in the 1960's under DLA. The concept was to have every contractor governed by one contract administrative organization (CAO). Firms that did a large amount of business with DoD would be administered by a Plant Representative Office (PRO), be it a DCASPRO, NAVPRO, ARPRO, or AFPRO. All other firms would come under the jurisdiction of a DCAS Management Area (DCASMA). The DCASMA

representatives would not be in residence, but would visit the contractor's plant as required. Figure 3.1 displays the overall contract administration organization for DoD. Each CAO is staffed with specialists to perform the following functions:

1. Engineering
2. Transportation
3. Security
4. Contracts
5. Cost, Price and Financial Analysis
6. Production
7. Quality Assurance
8. Property Administration. [Ref. 30:p. 17]

The main exception to this CAO hierarchy deals with contracts awarded by the base/installation activity. Small purchases (regardless of the place of performance) and contracts to be performed on a Government installation are not administered by a DCASMA or PRO. [Ref. 4:p. 42.2-1]

Contract administration for contracts awarded at the base/installation level is done by the Procuring Contracting Officer (PCO) or delegated to an Administrative Contracting Officer (ACO) in the same organization. The ACO is usually assisted by a Contracting Officers Technical Representative (COTR).



Source: [Ref. 30:p. 18]

Figure 3.1 DoD Contract Administration Organization

C. ACCOUNTING FOR GOVERNMENT PROPERTY

1. General Background

In order to maintain the public trust placed in the Government, very strict rules are placed on accounting for Government assets. Title 10 U.S. Code 2701(a) requires records of fixed property, installations and major equipment. These records must contain both quantitative and monetary values. The DoD has published revised guidelines establishing certain capital and dollar criteria for reporting assets. The DoN, in accordance with Navy Comptroller Manual Volume 3, Chapter 6, requires that all items defined as capital in nature be recorded and reported in the plant property account. The Navy Comptroller Manual (para. 036002) then goes on to discuss activities subject to its jurisdiction:

> 1. NAVAL SHORE ESTABLISHMENT. The instructions contained in this chapter are applicable to all active, inactive, and standby industrial-commercial, modified industrial, and non-industrial activities of the Naval Shore Establishment. However, they are not applicable to those activities designated as "advance bases" or to contractors plants (see subpara 4).
>
> 4. CONTRACTORS' PLANTS. The instructions in this chapter do not apply to Government-owned property in the possession of contractors. Instructions relating to the control and reporting of this property are contained in the Federal Acquisition Regulation and the Department of Defense and Navy FAR Supplements. [Ref. 33:pp. 6-1-2]

In order to ascertain the relevance of this NAVCOMPT paragraph to property administration on Naval installations the terms plant and possession must be defined. First the

legal definition will be presented, and then the common definition.

Plant: (Legal) The fixtures, tools machinery, and apparatus which are necessary to carry on a trade or business. [Ref. 8:p. 1309] (Common) The total facilities available for production or service. [Ref. 34:p. 878]

Neither of these definitions or any other the researcher reviewed made note of where the plant was located or who owned the property. Thus the contractor's plant is his normal place of doing business.

Possession: (Legal) The detention and control, or the manual or ideal custody, of anything which may be the subject of property, for one's use and enjoyment, either as owner or as the proprietor of a qualified right in it, and either held personally or by another who exercised it in one's place and name. The act or state of possessing. That condition of facts under which one can exercise his power over a corporeal thing at his pleasure to the exclusion of all other persons. [Ref. 8:p. 1325] Actual possession exists where the thing is in the immediate occupancy of the party. [Ref. 8:p. 1325] Constructive possession is not actual but assumed to exist, where one claims to hold by virtue of some title, without having the actual occupancy, as where the owner of a tract of land regularly laid out is in possession of a part, he is constructively in possession of the whole. [Ref. 8:p. 1325] (Common) Control or

occupancy or property without regard to ownership. [Ref. 34:p. 897]

While some definitions do connect possession with ownership, they would not be applicable here because the Government is concerned with actual possession in upholding its responsibility of public trust.

2. FAR Requirements

The FAR requires contractors who possess Government property to be responsible and accountable for maintaining the Government's official records. [Ref. 6:p. 45-1] However, there is an exception to this rule and the FAR states it as follows: [Ref. 6:p. 45-2]

> Contracts may provide for the contracting office to maintain the Government's official Government property records when the contracting office retains contract administration and Government property is furnished to contractor (1) for repair or servicing and return to the shipping organization, (2) for use on a Government installation, (3) under a local support service contract, (4) under a contract with a short performance acquisition cost of $25,000 or less, or (5) when otherwise determined by the contracting officer to be in the Government's interest.

3. FAR Clauses

FAR clauses can be divided into three distinct categories when discussing accounting for Government property. They are:

1. Government accounts for property
2. Contractor accounts for property in accordance with FAR Part 45.5
3. Contractor accounts for property in accordance with sound industrial practices.

Table 3.1 contains a detailed list of clauses by accounting requirements.

TABLE 3.1

PROPERTY CLAUSES BY ACCOUNTING REQUIREMENT

1. Government maintains official property records.

   52.245-1 Property records

2. Contractor maintains official property records in accordance with sound industrial practices.

   52.245-4 Government furnished property (short form)

   52.245.17 Special tooling

3. Contractor maintains official property records in accordance with FAR part 45.5

   52.245-2 Government property (fixed price contracts)

   52.245-5 Government property (cost reimbursement, time and material, or labor hour contracts)

   52.245-7 Government property (consolidated facilities)

   52.245-10 Government property (facilities acquisition)

   52.245-11 Government property (facilities use)

Property clauses not listed do not address property accounting.

D. REPORTING OF GOVERNMENT PROPERTY

As seen in Chapter II, Congress has a long-term interest in property reporting. The main thrust of this interest is

if DoD knows accurately the value of property in the contractor's hands, there must be controls in place to account for it.

Under the three previously mentioned types of property clauses, the Government has different rights with respect to property reports. When the Government maintains the official records, all reports must be generated by the Government and will be in response to Navy Comptroller Manual requirements.

Under the second type of clause (the short form), where the contractor maintains the records in accordance with sound industrial practices, the Government would have to ask the contractor for the report and effect a contract change or have a civil servant extract the information from the contractor's books, because the clause includes no provision for reports.

The third type of clause invokes part 45.5 of the FAR, which states:

> (a) The contractor's property control system should provide annually the total acquisition cost of Government property for which the contractor is accountable under each contract with each agency, including Government property at sub-contractor plants and alternate locations in the following classifications (property classifications may be varied to meet individual agency needs):
>
> (1) Land and rights therein.
> (2) Other real property, including utility distribution systems, buildings, structures, and improvements thereto.
> (3) Plant equipment of $5,000 or more.
> (4) Plant equipment of less than $5,000.
>
> (b) The contractor shall report the information under paragraph (a) as directed by the contracting officer.

The Defense Federal Acquisition Regulation Supplement requires this report not later than the 20th of October of each year.

The Defense Acquisition Regulation Supplement Number 3 then requires the reports to be prepared on DD form 1662 (Appendix B), with the original of the reports to be processed in accordance with departmental instructions to Headquarters, Defense Logistics Agency.

Department of the Navy Acquisition Regulations Supplement contains no guidance for report submission. Navy guidance in this area was promulgated in a memorandum from the Assistant Secretary of the Navy (Shipbuilding and Logistics) to the Naval Air Systems Command, Naval Sea Systems Command, Naval Supply Systems Command, Strategic Systems Project Office, Office of Naval Research, and with blind copies to all Naval Plant Representative Offices and Supervisors of Shipbuilding.

E. PROPERTY ADMINISTRATOR QUALIFICATIONS

Selection, appointment and termination of property administrators must be in writing. The property administrator should be selected for the position based on training, education, business acumen, judgment, character, and ethics. [Ref. 4:p. 45.70-1]

Additionally, Department of Defense Directive 5000.48, entitled Experience, Education and Training Requirements for Personnel Assigned to Acquisition, suggests personnel in the

industrial property management career field should have the following education and training:

1. Level I: GS 5/7, Officer 01/04, E1/7

Education: Associate's degree or equivalent is desired.

Training: Mandatory
- Industrial Property Administration
- Management of Defense Acquisition Contracts (Basic) or Contract Administration
- Defense Contract Property Disposition
- Introduction to Data Processing or another ADP Appreciation Course of 40 hours duration

2. Level II: GS 9/12, Officer 03/05, E6/9

Education: Associate's degree is desired, preferably with a major in business-related field.

Training: Mandatory
- Advanced Property Administration
- Government Contract Law

3. Level III: GS 13/15, Officer, 03/06, E8/9

Education: Baccalaureate Bachelor's degree, preferably with a major in business-related field.

Training: Mandatory
- Defense Acquisition and Contracting Executive Seminar
- Personnel Management for Executives Conference or
- Advanced Management Course or
- Executive Round Table or
- Management Development Seminar or
- Management of Managers Course or
- Managerial Assessment Orientation Seminar or
- Executive Center Seminar or
- Federal Executive Institute Program. [Ref. 35:p. 8]

When the aforementioned requirements differ from the requirements in the Office of Personnel Management Handbook X-118, Qualifications Standards for Positions on the General Schedule, they will be treated as quality ranking factors to assist in selecting the best qualified from among the minimum qualified candidates.

IV. SURVEY RESULTS

A. INTRODUCTION

The data presented in this study was accumulated through a telephone survey with 30 property administrators (Appendix C), civil servants or military (GS 1103 and other than GS-1103 series) serving in that capacity. The breakdown by major claimant to which the property administrators report is as follows:

Command Code	Major Claimant	# of Property Administrators Interviewed
11	Chief of Naval Operations	1
18	Naval Medical Command	1
19	Naval Air Systems Command	3
23	Naval Supply Systems Command	2
24	Naval Sea Systems Command	3
25	Naval Facilities Engineering Command	1
30	Strategic Systems Project Office	1
33	Military Sealift Command	2
39	Space and Naval Warfare Systems Command	2
60	Commander and Chief, U.S. Atlantic Fleet	2
62	Naval Education and Training	2
63	Naval Telecommunications Command	4
70	Commander and Chief, U.S. Pacific Fleet	6

The organizations surveyed were selected from a special report of records containing contractor data from the Naval Industrial Resources Support Activities fiscal year 1986 commercial activity inventory report file. The report contained 1902 commercial activities contracts valued at $2,626,230,000. Selection of property administrators to interview was first centered around base operations support services contracts; then the researcher branched out in two directions: first, to cover a wider range of functional areas and second, to include more major claimants. The researcher interviewed property administrators from 13 of 21 major claimants in the report and 10 of 12 major functional areas outlined in Chief of Naval Operations Instruction 4860.7B Navy Commercial Activities Program [Ref. 36].

After confirming that a respondent was indeed the property administrator, an interview lasted approximately 20 minutes. The survey was designed to determine if the property administrator was appointed in writing [Ref. 4:p. 45.70-1], had the required education and training [Ref. 35:p. 4], his/her knowledge of Property Administration, the value of property involved in the contract, and unique Property Administration problems caused by commercial activities contracts.

B. THE RESPONSES

1. Question One

What is your "GS" series and grade or military rank and specialty?

The responses were broken down as follows:

GS Series or Military per Grade	Job Title or Military Specialty	# of Interviews in Series Level
GS 303	Miscellaneous Clerk	1 @ 5
GS 315	Employee Development Specialist	1 @ 11
GS 334	Computer Specialist	1 @ 12
GS 391	Communication Manager	1 @ 12
GS 393	Communication Specialist	1 @ 12
GS 503	Plant Account Clerk	1 @ 5
GS 801	General Engineer	1 @ 12
GS 1102	Contract Specialist	1 @ 7
		1 @ 9
		1 @ 12
GS 1103	Industrial Property Management Specialist	3 @ 9
		1 @ 10
		4 @ 11
GS 1670	Equipment Specialist	2 @ 11
GS 2003	Supply Management	1 @ 14
GS 2010	Inventory Management	1 @ 10
GS 2030	Distribution Specialist	1 @ 9
GS 2130	Traffic Management	1 @ 11
Military	Civil Engineering Corps	2 @ 03
		2 @ 04
Military	Medical Services Corps	1 @ 02
WG-UKN	Material Expediter	1 @ 5

Eight (27%) of the 30 respondents indicated that they were of the GS-1103 Industrial Property Management series. Out of the eight GS-1103's interviewed, six were involved with base operations support services contracts.

2. Question Two

Are you appointed in writing as required by DFARS 45.7001?

Yes (10) 33%

No (20) 67%

A more detailed look at the figures reveals:

	YES		NO	
GS 1103	(8)	26.7%	(1)	3.2%
Other Civilians	(2)	6.7%	(14)	46.7%
Military		0	(5)	16.7%

Thirteen of the 14 civil servants who were not appointed in writing as property administrators believed that their appointment in writing as Contracting Officer Technical Representative covered their duties as property administrator. The one GS 1103 who was not appointed in writing was aware of the requirement and working on the appointment. It seems that since he was not at the contracting activity the Command would not appoint him, nor would they generate a letter requesting that the Procuring Activity appoint him as property administrator.

3. Question Three

Are there any other industrial property administrators (GS 1103s) in your organization?

Yes (3) 10%

No (27) 90%

All "yes" respondents indicated that the other property administrator was a GS-1103 who was working as their assistant. Two of the three "yes" respondents were working on base operations support services contracts, and

the third was at a base with numerous mission support services contracts.

One of the "no" answers was qualified by stating that there was a vacancy for a GS-1103, but it was not known when the position would be filled.

4. Question Four

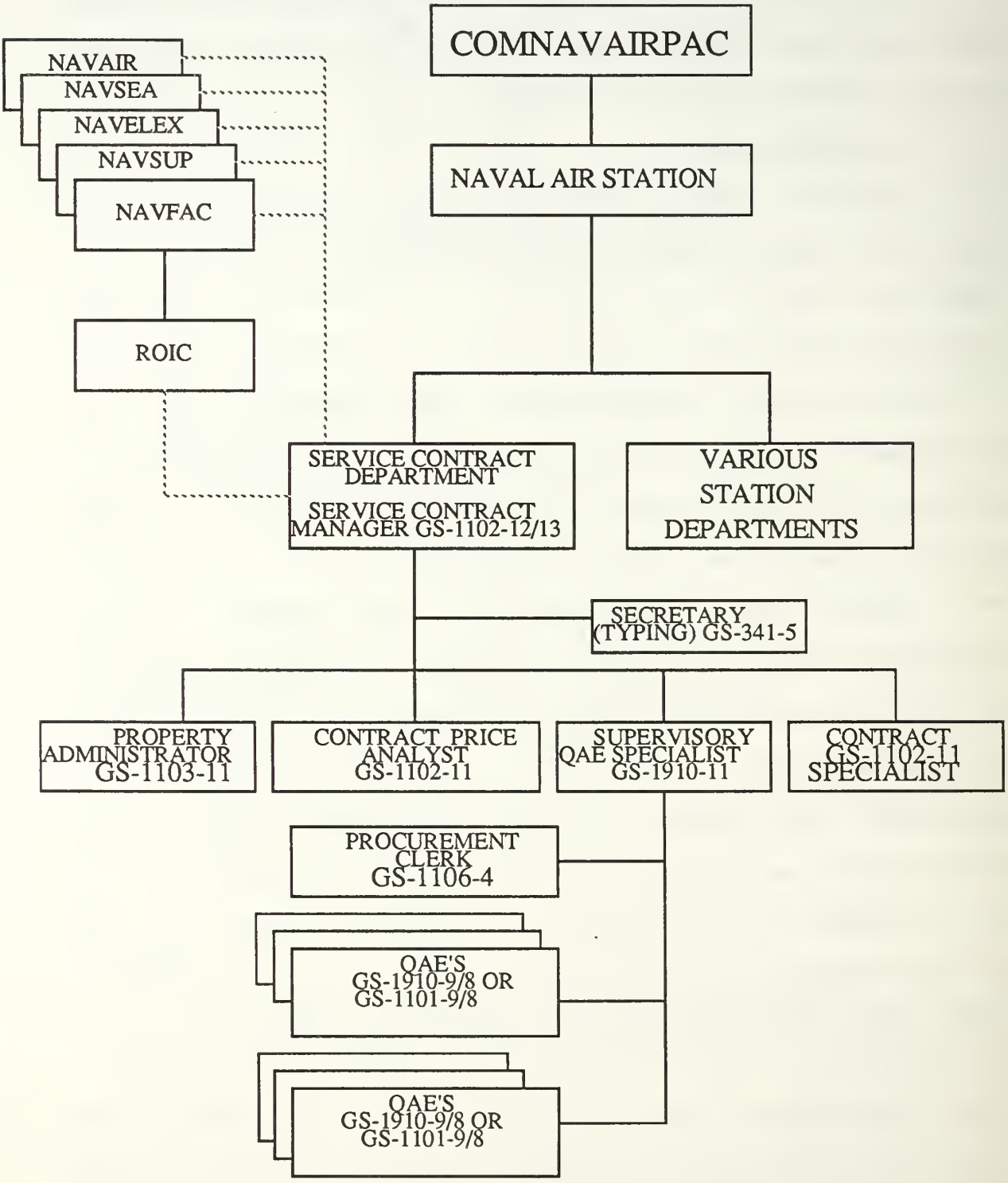
Does your organization have plans to hire an/another industrial property administrator (GS-103)?

Yes (1) 10%

No (29) 90%

The "yes" respondent to this question was the qualified "no" to the last question. He stated that in addition to his one vacancy he was planning to hire a second GS-1103 as resources become available.

There was one qualified "no" answer. This respondent indicated that his Command's immediate superior in the chain-of-command (ISC) had put out a policy letter with a suggested administrative organization for base operations and support services contracts. This model organization (see Figure 4.1), which was not funded in any way, included a GS-1103 position. While the respondent did not have plans to hire an 1103, he believed the ISC would assist him in changing his mind in the near future.



Source: [Ref. 36]

Figure 4.1 Model Property Organization for Base Operations Support Services Contracts

5. Question Five

What is your educational background?

High School Graduate	H/S
Some College (no degree)	S/C
AA Degree	AA
College Graduate	CG
Master's Degree	MD

GS Grade/Military Rank	H/S	S/C	AA	CG	MD
Civilian					
5	2	1			
7	1				
9	4	1			
10	1	1			
11	1	5		2	
12	2	1		1	1
14				1	
Military					
02					1
03				2	
04					2

While the DoD Directive 5000.48 "Experience, Education and Training Requirements for Personnel Assigned to Acquisition" is aimed at GS-1103 industrial property administrators, all the respondents to this survey met or exceeded the educational requirements.

6. Question Six

What property administration training courses have you taken?

Eight of 30 respondents had taken the industrial Property Administration Course, and seven of these eight were GS-1103 series property administrators.

Twenty-five of the 30 respondents had taken a Contract Administration Course, and 12 of the 25 had a Contracting Officer's Technical Representative Course.

Only two out of 30 (10%) had Defense Contract Property Disposition Course and both were GS-1103's.

An Introduction to ADP or other ADP applications course of 40 hours in duration was completed by 12 of the 30 respondents (40%).

The Advanced Property Administration Course was attended by only three (10%) of the property administrators; all three were GS-1103's.

The Government Contract Law Course was attended by seven of the 30 respondents (23%).

As for the advanced courses required by the DoD Directive 5000.48, only one respondent was required to have this training and he had completed the courses.

7. Question Seven

Do you know what clauses are in the contract you administer governing property?

Yes (12) 40%

No (18) 60%

Of the 12 "yes" respondents, seven were of the GS 1103 series. When the researcher went on to ask for specific clause numbers, he received property clause numbers from all but four of the "yes" respondents. Comments from

the respondents who did not know the clause number was, are as follows:

1. Property clauses were not put in the contract.
2. Property is rarely an issue, so property clauses were not put in the contract.
3. All required clauses.
4. Local clauses because of the unique nature of the commands business.

Of the 18 "no" respondents, most were willing to help and said if they were given the time, they would look the clause up. Individual comments worth noting were:

1. The final copy of the contract is not out, so there is no way of knowing what it is.
2. I have no idea, but my supervisor could help you with that.

In general, most of the "no" respondents, while helpful, seemed to have little knowledge or concern for property.

8. Question Eight

What guidance do you use for property administration?

FAR	(9)	30%
DAR	(11)	37%
DFARS	(8)	27%
DARSUPP 3	(10)	33%
NARSUP	(7)	23%
Memo ASN (S&L)	(0)	0
NONE	(10)	33%

(Each property administrator may have had multiple answers.)

The only respondents who seemed sure of themselves when answering this question were the GS 1103's and the GS 1102's. Many of the COTR's who were involved in the

property administration function as a collateral duty seemed unconcerned about guidance from higher authority, or believed it did not apply to their contract.

9. Question Nine

Do you have any property administration guidance specifically for commercial activities contracts?

The answer to the question was "no" in all cases except for the respondent who addressed the COMNAVAIRPAC letter with the model contract administration organization, suggesting that there be a GS 1103 in the organization.

10. Question Ten

Are there any requirements from your chain of command that apply to property administration or recordskeeping?

Yes (8) 27%

No (22) 73%

The "yes" respondents cited local instructions covering plant property management, Navy Comptroller Manual Vol. 3, Chapter 6 (also on plant property accounting), and/or NAVFAC Publication P-78, Navy Facilities Assets Data Base Management System Procedures Manual.

11. Question Eleven

Are there any property administration problems caused by commercial activities contracts?

Yes (8) 27%

No (22) 73%

The eight respondents who answered "yes" were generally involved with base operations and support services contracts. Their concerns were:

1. The standard clauses are not strong enough to hold the contractor to the contract or force him to make restitution to the Government for missing property.

2. The Government at times requires access to the (contractor operated) warehouse to make emergency issues, the contractor can not be held responsible for inventory accuracy.

3. With the volume of Government property in the contract, getting an accurate inventory and determining condition of material is a difficult task.

4. The detail of inventory is much greater (100%) when the property is in the hands of contractors, than when it's being used by civil servants; thus, the initial inventory was 10 times as complicated as a normal plant property account triannual inventory and it has to be done three times as often.

5. Government officials (none were acquisition personnel) try to force standard regulations on contractors for property accounting; they do not understand that the FAR takes precedence and not the NAVCOMPT Manual.

6. The Government has all kinds of reporting requirements (for land, buildings, vehicles, firearms, etc.) and no one wants to let the contractor maintain the official Government records; they (the functional managers) continue to maintain records and file the reports, but they expect the contractor to respond promptly when they need special inventories (outside the annual inventory) or other information.

7. The contracts are written by persons with little or no property experience and they do not ask for assistance concerning property, but give us (the property administrator) their problems to administer.

8. The Government-furnished property was maintained by the Government, so when it went down the contractor discontinued work and claimed delay and disruption by the Government.

9. On the scheduled commencement of the initial inventory (for a boss contract), the contractor requested a

three week delay because he was not yet geared up for contract performance. One week prior to contract commencement, after the contractor hired new employees (many ex-civil servants), the Government was unable to do the inventory because many employees had left Government service or transferred. It took a long time to recover from this on both sides of the fence.

14. Question Twelve

Who maintains the Government's Official Property Records, the Government or the Contractor?

Government	(21)	70%
Contractor	(7)	23.3%
Both	(1)	3.3%
Unknown	(1)	3.3%

Seventy percent of the respondents answered that the Government maintained the official property records; in four cases this did not match the answer given in response to question seven (Do you know what clauses are in the contract concerning property?), where clauses were cited that required the contractor to keep the official property records.

The one respondent who answered both categorized the reporting function by property class:

Class I	Land	Government
Class II	Buildings, structures, and utilities	Government
Class III	Equipment (other than IPE)	Contractor
	Vehicles	Government
Class IV	Industrial Plant Equipment	Contractor
Minor	All other property	Contractor

This was done to facilitate reporting requirements from different sources.

The one unknown answer came from a respondent whose only property to administer was a room in which the contractor operated a library; all other property was contractor-furnished.

13. Question Thirteen

Does the contractor have an approved property control system?

Yes (9) 30%

N/A (13) 57%

Ukn (4) 13%

One of the "yes" answers was qualified; the respondent said that the contractor's property system was not approved in writing (as required by the FAR); however, it was in the initial proposal which was accepted, thus the property system is approved.

The four "unknown" responses were from property administrators who did not know what clauses were in their contracts and had no desire to find out. Of the 17 "not applicable" responses, at least two can be identified that should have had approved property systems, judging from the clauses cited in question seven.

14. Question Fourteen

Was the DD-1662, "Report of DoD Property in the Custody of Contractors" submitted properly?

Yes (5) 17%

No (6) 20%

N/A (19) 63%

One of the five "yes" answers was qualified by the statement that the contractor had submitted the report, but it was rejected because it differed greatly from the prior year's report and it could not be reconciled. The other four "yes" respondents who had submitted the DD-1662 report appeared on a listing of Navy contractors who had not reported to the Contractor Property Management System as of 23 February 1987.

With further questioning it was determined that reports had been submitted in accordance with a cancelled Material Command Instruction, or sent directly to DLA and not submitted in accordance with the most recent Assistant Secretary of the Navy (Shipbuilding and Logistics) Memorandum.

Three of the "no" answers believed that a report was not required because the contract had begun after the beginning of the fiscal year. The other three "no" answers said they had never heard of the report so could not submit it.

In general, most respondents answering "not applicable" had never heard of the report. These 17 believed that since the Government was maintaining the official property records, there was no need to report it on a DD-1662.

15. Question Fifteen

What is the value of Government-furnished property in the hands of contractors?

$681,211,000.00

This total amount was arrived at by summing the values from each respondent. These values are broken down by major claimant in Table 4.1. There are several factors that detract from the credibility of this figure and make it impossible for any statistical analysis.

First, most of the property administrators estimated the property value; they claimed they had no way to find exact figures without hours of research. Second, given values did not include land, buildings, structures, utilities or vehicles, because they were accounted for by Public Works. Third, this figure took into account only 22 of 30 responses; the other eight respondents had no idea what the value of the property was and would not venture to take a guess.

16. Question Sixteen

What is the value of Government property used by the contractor off the Naval installation?

$15,000.00

This amount was generated from one contract; while the contractor had much more property, this small amount was used at his facilities in town.

TABLE 4.1

LIST OF PROPERTY VALUES PER CONTRACT BY MAJOR CLAIMANT

Major Claimant	Value of Property
Chief of Naval Operations	
1.	13,000
Naval Medical Command	
1.	750,000
Naval Air Systems Command	
1. No estimate	---
2. No estimate	---
3.	30,000,000
Naval Supply Systems Command	
1. No estimate	---
2. No estimate	---
Naval Sea Systems Command	
1.	200,000
2. No estimate	---
3. No estimate	---
Naval Facilities Engineering Command	
1.	4,097,000
Strategic Systems Project Office	
1.	5,000,000
Military Sealift Command	
1.	100,000,000
2. No estimate	---
Space and Naval Warfare Systems Command	
1.	7,000,000
2. No estimate	---
Commander and Chief, U.S. Atlantic Fleet	
1.	56,000
2.	257,100,000
Naval Education and Training	
1.	100,000,000
2.	3,900,000

TABLE 4.1 (CONTINUED)

Major Claimant	Value of Property
Naval Telecommunications Command	
1.	6,000,000
2.	30,000,000
3.	3,000,000
4.	50,000,000
Commander and Chief, U.S. Pacific Fleet	
1.	573,000
2.	13,000,000
3.	62,000,000
4.	7,500,000
5.	247,000
6.	765,000
	$ 681,211,000

17. Question Seventeen

What is the value of Government property that is jointly used by the Navy and the contractor?

Most respondents answered that there was no joint use of property; however, there is property (such as cars) that the contractor maintains and the Government operates, but there are generally strict controls over custody. Most respondents also stated that in case of emergency, the Government could use any piece of equipment it needed.

The one respondent whose contract provided for Government owned/maintained and contractor-operated equipment had expressed only negative feelings toward the situation. It seems the main disadvantage to this situation was the contractor's claim of delay and disruption when equipment was not available when he needed it. Whenever a

piece of equipment was out of commission the contractor said he could not work and it was the Navy's fault.

While not included in the survey, on a field trip the researcher found one activity that had a large amount of joint use property. The contracts contained statements such as "XYZ equipment will be provided as required." This equipment remained in the Government's possession at all times and the contractor worked in Government space alongside civil servants.

C. DISCUSSION OF THE DATA

Most people interviewed were willing to assist. The industrial property management specialists were by and large the most willing to help. The contracting officer's technical representatives who were handling property administration as a collateral duty had limited contract knowledge and almost no idea of what property management responsibilities entailed.

There were numerous contracting officers technical representatives, and contract specialists who believed that property on Naval installations was not in the possession of the contractor so there were no reporting requirements and no different administration requirements than outlined in the Navy Comptroller's Manual.

Although most property administrators were well educated and well trained, they lacked industrial property management courses. While most property administrators did use

standard manuals (AFAR, DAR, DFARS, etc.) in their work, there is no information available concerning property administration and services contracts. This leaves the property administrator to use regulations designed for production contracts and to interpret them to the best of his ability.

V. CONCLUSIONS, RECOMMENDATIONS, AND AREAS FOR ADDITIONAL RESEARCH

A. CONCLUSIONS

The following conclusions were developed as a result of this research effort:

1. There is a distinct lack of guidance for service contract property administration.

While service contracts are ever-increasing in numbers, dollar amounts, and scope of work, the property administration guidance in the FAR, DFARS, DARSUPP III, and the NARSUP is minimal and geared toward production contracts, not service contracts. Specifically, areas that must be addressed are:

The acquisition guidance does not clearly address property accounting for service contracts performed on military installations.

While the FAR policy is clear (when contractors possess Government property they shall be responsible and accountable for it and keep the Government official records) many PCO's do not believe this applies to contracts performed on military installations because they do not believe the property is in the possession of the contractor.

There is no policy or guidance on accounting or reporting of Government property (stock) held by contractors performing warehousing contracts.

This type of property (stock) does not fit into any of the property categories. By definition it is not special

tooling, special test equipment, material, or facilities. While the definition of military property does seem to apply, this category of property is generally used to indicate property that is furnished to contractors as a standard or model, for testing the contractor's end item where suitable commercial equipment is not available, or to establish equipment compatibility.

2. Most commands use the COTR as the property administrator.

While conducting the research the author found that most commands used the COTR as the sole point of contact for all matters dealing with his/her particular contract.

3. There is a great deal of confusion at the field activities concerning what should be reported on the DD 1662 report, "DoD Property in the Custody of Contractors."

Land, buildings, structures, utilities, and vehicles have accounting and reporting requirements in addition to FAR requirements, such as the Navy Facility Asset Data Base Management System. Many field activities feel they should not be reporting assets twice; thus this information was left off all DD 1662 reports the author reviewed.

4. There is a lack of standard thinking concerning the submission of the DD 1662 report, "DoD Property in the Custody of Contractors."

As discussed in Chapter III only one of three types of property clauses requires property to be accounted for and reported in accordance with FAR part 45.5. Since FAR 45.505-14 requires the submission of the DD 1662 report,

contracts with one of the other two types of property clauses would not require this report. However, interviews with various DoD officials up and down the chain of command have turned up differing opinions; some believe the DD-1662 is required on all contracts and others believe it is not.

5. Promulgation of changes to Navy property reporting procedures were not handled in the most effective manner possible.

Although the Assistant Secretary of the Navy (Shipbuilding and Logistics) Memorandum dated 3 October 1986 was addressed to the Naval Air Systems Command, Naval Sea Systems Command, Naval Supply Systems Command, Strategic Systems Program Office and the Office of Naval Research, with blind copies to all SUPSHIPS and NAVPROS, this information did not get passed down to the field activities. This caused activities that submitted reports to submit them incorrectly and not have them included in the Contractor Property Management System database.

6. Navy field contracting activities do not have the experts to handle many contract administration problems, such as accounting for property.

The main thrust of the business at the Navy field contracting activity is to award contracts; thus they are staffed differently than a contract administration organization would be. They do not have the engineering, transportation, security, production, quality assurance and property experts. This leaves the burden of these tasks up to the requiring activities.

B. RECOMMENDATIONS

The following recommendations are relevant from this research effort:

1. The DoD Property Council should review and modify current property guidance to incorporate changes necessary to enable service contract property administrators to effectively do their jobs.

First, the acquisition guidance needs to be changed to address property furnished to contractors for use on Government installations. It needs to be made clear that all property listed in the contract as Government-furnished or contractor acquired, is in the possession of the contractor.

Second, the acquisition guidance needs to be changed to include a Government-furnished property category "stock" for property in the possession of contractors performing on warehousing contracts.

Third, the acquisition guidance should be changed to clarify that all property in the possession of the contractor should be reported on the DD 1662, even if there are other reporting requirements for that class of property.

Fourth, the acquisition guidance should be changed to clarify under what circumstances DD 1662 reports are required.

2. All Navy changes to property reporting procedures should be done formally.

This formal process should be accomplished through the NARSUP. If this is not a timely course of action, changes

done by memorandum should be sent to all system commanders with blind copies to all activities listed in the Contractor Property Management System.

C. AREAS FOR ADDITIONAL FURTHER RESEARCH

Areas recommended as follow-on thesis or research topics are:

1. Investigate differences in property administration requirements for service and production contracts.
2. Investigate the applicability of linking the property clause reporting and accounting requirements strictly to a property dollar value.
3. Study the economic impact of providing property to contractors, and the effects it has on future competition.
4. Study the contractor's motivation to maintain property provided as a free good.

APPENDIX A

COMMERCIAL ACTIVITIES PROPERTY DECISION RULE

GUIDELINES FOR PROVIDING GOVERNMENT PROPERTY TO CONTRACTORS IN A-76 SITUATIONS

The Federal Acquisition Regulations (FAR) specify that to the greatest extent possible contractors should furnish facilities and equipment required to perform government contracts. The FAR does, however, acknowledge exceptions to this basic premise; these exceptions often apply to situations involving commercial activities. The decision to offer or not to offer government property to a contractor shall be determined by a cost benefit analysis using intelligent, common sense criteria justifying that the decision is in the best interest of the Government. Involved or complex analyses are not required, particularly when the benefits of one option are relatively clear. Analyses should, however, document the rationale for the decision citing specific applicable circumstances using the following criteria:

A. Facilities. Providing government facilities under CA contracts may be in the government's best interest if such action supports increased contractor responsiveness and productivity and reduces contract price. Analyses should document relevant issues such as location of facilities relative to operational sites, effect on customer support, security limitations on contractor occupancy, commingling of government and contractor employees, costs of work space reconfiguration, impact on budgeted or programmed military construction (MILCON) projects, and alternative government use of facilities. Analyses in cases of alternate use should determine savings based on the amount budgeted or programmed for the MILCON project minus the cost of converting the facility to the alternate use. The mere possibility of alternate use of a government facility does not justify denying use of the facility to a contractor if use by a potential contractor would otherwise be advantageous.

B. General purpose (non-specialized) equipment. Wide opportunity for alternate government use, increased contractor accountability and reduced contract administration responsibilities would normally dictate the contractor's furnishing of general purpose equipment such as

small trucks, sedans, tools, and forklifts to be in the government's interest. Decisions to provide general purpose equipment depend upon such factors as the value of the equipment relative to the size of the potential contract; the ability of potential contractors to obtain this equipment of not furnished by the government; the capability of potential contractors to provide equipment from their own resources; and a determination that contractor-supplied equipment would not substantially increase the contract price or would not limit competition unreasonably.

C. Specialized or High Value Equipment. Government furnishing of high value or specialized equipment may be in the government's best interest, particularly when the function under study requires only limited use of the equipment. Reductions in contract cost must be weighed against possible problems resulting from the contractor's reduced accountability when performance of a function depends upon government furnished equipment. Decisions will hinge on the condition of government equipment; the availability of equipment in the local market; and the estimated cost of lease, rental, or purchase of the required equipment compared to the relative size of the proposed contract. Consideration of these factors will determine whether requiring the contractor to furnish the equipment might limit competition unreasonably or result in significant increases in the contract price. If specialized or high value equipment would be required infrequently by a contractor, its use can be made available to the contractor on a reimbursable basis by the Government. This option should result in reduced contract costs and increased competition.

These general guidelines are not intended to preclude the use of more rigorous economic analysis formats. In many cases, however, the inaccessibility of cost or pricing data, the unavailability of analytical expertise, and the relatively straight-forward nature of the decision itself make the use of more involved and rigorous decision-making processes inefficient.

APPENDIX B

DOD PROPERTY IN THE CUSTODY OF CONTRACTORS DD FORM 1662

DOD PROPERTY IN THE CUSTODY OF CONTRACTORS (DFARS 45.505-14) *(See Instructions on reverse before completing this form.)*	REPORT AS OF 30 SEP 19___ OR _____	Form Approved OMB No 0704-0246 Expires Apr 30, 1989 / REPORT CONTROL SYMBOL DD-A&L(A)1087

1. TO *(Enter name and address of property administrator)*	2. FROM *(Enter full name and address of contractor)*
3. IF GOVERNMENT-OWNED, CONTRACTOR-OPERATED PLANT, ENTER GOVERNMENT NAME OF PLANT	

4. CONTRACT NO. *(PIIN)*	5. CONTRACT PURPOSE	6. BUSINESS TYPE *(L, S, or N)*	7. OFFICIAL NAME OF PARENT COMPANY

8. PROPERTY LOCATION(S)	9. PLANT EQUIPMENT PACKAGE *(PEP No. and use)*

a. PROPERTY *(Type or Account)*	b. BALANCE BEGINNING OF PERIOD (1) Acquisition Cost *(in dollars)*	b. BALANCE BEGINNING OF PERIOD (2) Quantity *(in units or acres)*	c. ADDITIONS *(in dollars)*	d. DELETIONS *(in dollars)*	e. BALANCE END OF PERIOD (1) Acquisition Cost *(in dollars)*	e. BALANCE END OF PERIOD (2) Quantity *(in units or acres)*
10. LAND						
11. OTHER REAL PROPERTY						
12. OTHER PLANT EQUIPMENT						
13. INDUSTRIAL PLANT EQUIPMENT						
14. SPECIAL TEST EQUIPMENT						
15. SPECIAL TOOLING *(Government Title Only)*						
16. MILITARY PROPERTY *(Agency-Peculiar)*						
17. GOVERNMENT MATERIAL *(Government-Furnished)*						
18. GOVERNMENT MATERIAL *(Contractor-Acquired)*						

CERTIFICATION

I certify that this report was prepared under DoD requirements from records maintained under FAR and DFARS 45.5.

19 CONTRACTOR REPRESENTATIVE		
a. TYPED NAME	b. SIGNATURE	c. DATE SIGNED

20. DOD PROPERTY REPRESENTATIVE		
a. TYPED NAME	c. SIGNATURE	d. DATE SIGNED
b. TELEPHONE NUMBERS *(Commercial and Autovon)*		

DD Form 1662, OCT 86 *Previous editions are obsolete.*

REPORTING INSTRUCTIONS

GENERAL. The prime contractor shall report all DoD property *(as indicated)* in its custody or in that of its subcontractors as of September 30 to the Government Property Representative by October 21 of each year. Report zero balances on contracts accountable for DoD property when they close.

REPORT AS OF 30 SEP 19 ___. Fill in the appropriate year *(or other date).*

ITEM 1 - TO. Enter the name of the Government Property Representative, the Contract Administration Office or other office the Government Property Representative works for, and the full mailing address *(including City, State, and ZIP + 4).*

ITEM 2 - FROM. Enter the full name and address of the reporting contractor with the Division name stated after the Corporate name. Use the name as it appears on the contract but omit articles and insert spaces between company names that are made up of letters like B D M International Inc., for example.

ITEM 3 - Enter the Government name of the plant if the plant is Government-owned and Contractor-operated. Leave blank if it is a contractor-owned plant.

ITEM 4 - CONTRACT NO. *(PIIN).* Enter the 13-digit contract number or Procurement Instrument Identification Number *(PIIN)* under which the Government property is accountable. Use format XXXXXX - XX - X - XXXX.

ITEM 5 - CONTRACT PURPOSE. Enter one of the following 1-character alphabetic codes to identify the general purposes of the contract:

a. RDT&E

b. Supplies and Equipment *(deliverable end items)*

c. Facilities Contract

d. Lease of facilities by the contractor

e. Maintenance, Repair, Modification, or Rebuilding of Equipment

f. Operation of a Government-Owned Plant or Facilities including test sites, ranges, installations

g. Service contract performed primarily on Military Installations, test facilities, ranges or sites

h. Contract for storage of Government Property

i. Others

ITEM 6 - TYPE OF BUSINESS. Enter a 1-character alphabetic code indicating the type of business concern:

L = Large S = Small N = Non-profit

(See FAR Part 19 for definition of Small and FAR 31.701 for definition of Non-Profit.)

ITEM 7 - Enter the name of the Parent Corporation of the Reporting Contractor. The Parent Corporation is the one in which common stock has been issued irrespective of whether the stock is publicly traded or not and which is not a subsidiary of another corporation.

ITEM 8 - PROPERTY LOCATION(S). Enter the primary location(s) of the property if it is located at site(s) other than that of the Reporting Contractor, e.g., location of subcontract property or property at alternate sites of the prime contractor. Location is the City, State and Zip or the Military Installation or the Foreign site. Limit input to 69 characters. NOTE: Can be used as a "REMARKS" field.

ITEM 9 - PLANT EQUIPMENT PACKAGE. Enter the Number and Use of a Plant Equipment Package *(PEP)* if one exists on this contract. Leave blank otherwise. Example: ARMY PEP #570 - 81 mm Shells.

ITEMS 10 - 18.b.(1) - ACQUISITION COST (BALANCE AT THE BEGINNING OF THE FISCAL YEAR). Enter the acquisition cost for each type of property as defined in FAR or DFARS 45.5. The amounts reported must agree with the amounts reported in the previous year for BALANCE AT END OF PERIOD.

ITEMS 10, 12 - 16.b.(2) - QUANTITY (BALANCE AT BEGINNING OF THE FISCAL YEAR). Enter the quantity for all categories of Government property except for Other Real Property and Material on hand at the beginning of the fiscal year. The amounts reported must agree with the amounts reported in the previous year for BALANCE AT END OF PERIOD.

ITEMS 10 - 16.c. - ADDITIONS *(in dollars).* For the property categories indicated, enter the acquisition cost for the total additions to the contract from any source during the fiscal year. Do not enter for Government Material.

ITEMS 10 - 16.d. - DELETIONS *(in dollars).* For the property categories indicated, enter the acquisition cost for the total deletions from the contract during the fiscal year Do not enter for Government Material.

ITEMS 10 - 18.e (1) - ACQUISITION COST (BALANCE AT THE END OF THE FISCAL YEAR). Enter the acquisition cost for each type of property as defined in FAR or DFARS 45.5.

ITEMS 10, 12 - 16.e.(2) - QUANTITY (BALANCE AT END OF FISCAL YEAR). Enter the quantity for all categories of Government Property except for Other Real Property and Material on hand at the end of the fiscal year. These will be carried forward to reflect the balance at the beginning of the following year.

ITEM 19 - CONTRACTOR REPRESENTATIVE. Type the name of the contractor representative authorized by the property control system to sign this report. This will be the person certifying the report was prepared under DoD reporting requirements from records maintained by the contractor under FAR & DFARS 45.5. Date and signature of person indicated in Item 19.a.

ITEM 20 - DOD PROPERTY REPRESENTATIVE. Type the name of the DoD Property Administrator or other Authorized Property Representative, plus that individual's commercial area code and telephone number and AUTOVON number *(if one exists).* Signature and date.

NOTE TO CONTRACTOR: When reporting more than one contract from the same location and the same contractor, you may elect to fill out Data Elements 1, 3, 6, 7, and 19 only once as long as each form can be readily identified if any form becomes separated from the others. The certification in such cases will apply to all forms submitted whether or not each form is individually signed.

APPENDIX C

LIST OF INTERVIEWS

1. Armes, B., COTR, Naval Communication Area Master Station, Norfolk, Va., 13 July 1987, (Telephone).

2. Benson, D., COTR, Navy Material Transportation Office, Norfolk, Va., 27 July 1987, (Telephone).

3. Betancourt, L., Property Records Clerk, Public Works Department, Naval Station, Roosevelt Roads, Pr., 13 July 1987, (Telephone).

4. Canaberry, T., Industrial Property Administrator, NAS, China Lake, Ca., 14 July 1987, (Telephone).

5. Clinton, J., COTR, Naval Communication Station, Roosevelt Roads, Pr., 14 July 1987, (Telephone).

6. Cutcher, Mr., Industrial Property Administrator, Naval Submarine Base, Kings Bay, Ga., 7 July 1987, (Telephone).

7. Davis, N., COTR, Naval Communication Area Master Station Eastern Pacific, Wahiwi, Hi., 15 July 1978, (Telephone).

8. Edwards, S., Contract Specialist, Naval Electronic Systems Engineering Activity, St. Indigoes, Md., 23 September 1987, (Personal).

9. Games, P., Contract Specialist, Naval Aviation Depot, North Island, Ca., 22 July 1987, (Telephone).

10. Geddes, J., COTR, Naval Air Engineering Center, Lakehurst, N.J., 30 July 1987, (Telephone).

11. Hall, D., Industrial Property Administrator, NAS, Whitting Field, Fl., 13 July 1987, (Telephone).

12. Hanney, J., Material Expediter, Naval Ordinance Station, Louisville, Ky., 7 July 1987, (Telephone).

13. Hooker, M., Industrial Property Administrator, NAS, Memphis, Tn, 13 July 1987, (Telephone).

14. Hull, M., COTR, NAS, Cecil Field, Fl., 23 July 1987, (Telephone).

15. Hunton, D., COTR, Naval Supply Center, San Diego, Ca., 27 July 1987, (Telephone).

16. Johnson, J., Plant Account Clerk, Naval Magazine, Lualualei, Hi., 22 June 1987, (Telephone).

17. McConnell, T., Industrial Property Administrator, Pacific Missile Center, Point Mugu, Ca., 19 July 1987, (Telephone).

18. Krier, P., Lt, MSC, Naval Hospital, Pensacola, Fl., 24 July 1987, (Telephone).

19. Morrell, J., COTR, Naval Ship Yard, Norfolk, Va., 27 July 1987, (Telephone).

20. Morse, C., Lt., CEC, PWD Patent River, Md., 14 July 1987, (Telephone).

21. Myers, L., Industrial Property Administrator, Submarine Base, Bangor, Wa., 10 July 1987, (Personal).

22. Niehue, H., Plant Account Clerk, Naval Communications Station, Stockton, Ca., 13 July 1987, (Telephone).

23. Olsen, J., Industrial Property Administrator, NAS, Barbers Point, Hi., 22 June 1987, (Personal).

24. Owens, M., Contract Specialist, Operational Test and Evaluation Force, Norfolk, Va., 15 July 1987, (Telephone).

25. Ponte, F., Contract Specialist, Pacific Missile Range Facility, Barking Sands, Hi., 16 July 1987, (Telephone).

26. Rasmussen, N., Industrial Property Administrator, NAS Whidbey Island, Wa., 9 July 1987, (Personal).

27. Reeder, R., COTR, Naval Air Development Center Detachment, Key West, Fl., 4 August 1987, (Telephone).

28. Schiffner, A., Lcdr, CEC, NAF, El Centro, Ca., 19 July 1987, (Telephone).

29. Stewart, J., Supply Management Specialist, Military Sealift Command, Washington, D.C., 23 July 1987, (Telephone).

30. Westerfield, K., Lcdr, CEC, PWC, Pearl Harbor, Hi., 23 June 1987, (Telephone).

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